

My Lai Defense Hails CIA Agents' Subpoena

ATLANTA (UPI) — Attorney Charles L. Weltner feels he has scored an important "first" in getting Central Intelligence Agency personnel to testify at the court-martial of one of the My Lai defendants.

"It is the first time any court of law has ever succeeded in issuing subpoenas for CIA agents," Weltner, a former congressman, said. "For over 20 years, this activity of government has been so secret, nobody—not even Congress—knew what has been going on."

He represents Sgt. Escuilo Torres, 22, of Brownsville, Tex., who is scheduled for court-martial at Ft. McPherson here Feb. 16 on charges of machine-gunning three Vietnamese civilians to death, and with assault in the hanging of a fourth.

Up to President, He Says
When asked whether he felt the CIA might seek executive immunity for three persons called to testify, Weltner said he believes the decision would be up to President Nixon. A decision to seek immunity for the CIA agents would place Nixon in "an unconscionable and untenable position," Weltner argues.

"The question is whether or not taxpayers are going to be supporting operations over which they have no control," he said.

Weltner contends the CIA planned and ordered the My Lai operation during which, the Army charges, between 162 and 310 civilians were killed March 16, 1968. The Army thus far has ordered six American soldiers to face trial in the case. One, S. Sgt. David Mitchell, 20, of St. Francisville, La., already has been acquitted and a second, 1st

Lt. William L. Calley Jr., currently is under court-martial at Ft. Benning, Ga.

Weltner has contended from the time he became Torres' civilian attorney that the CIA was involved in My Lai through a mysterious "Operation Phoenix" which the lawyer said "involved assassination and kidnappings" of alleged Viet Cong in South Vietnamese villages.

At a hearing for Torres earlier this week, at which his court-martial date was set, the military judge, Col. James A. Hagan, first denied a motion to subpoena 24 persons, including CIA director Richard Helms and Defense Secretary Melvin Laird.

Hears Classified Data

After hearing classified testimony in closed session, however, Hagan agreed to issue subpoenas for three alleged CIA agents whom Weltner identified as James B. May, senior adviser in Quang Ngai Province where My Lai is located, Robert Rumsdale, whom he called director of "Phoenix," and Capt. Clarence J. Dawkins.

Alleged CIA operations also may figure in another My Lai court-martial—that of Pvt. Gerald A. Smith, 22, of Chicago. His military attorney, Capt. Kelly Rawlecon, has charged that Smith was "singled out (for trial) to get the government and the Army off the hook."

If given the opportunity at Smith's court-martial, tentatively set for Jan. 23, Rawlecon says he will attempt to show that U.S. agents were taught at the Army's intelligence school at Ft. Holloman, Md., to "receive funds from undisclosed sources to pay oriental mercenaries to assassinate Viet Cong civilians."